

**Stillwater Zoning Board of Appeals
September 28, 2009
Stillwater Town Hall**

Present: Chairman James R. Ferris; Donald D'Ambro; Alec Mackay; Joseph Urbanski; William Ritter

Also Present: Paul Cummings, Planner for the Town; Daryl Cutler, Attorney for the Town; Sue Cunningham, Secretary for the Zoning Board of Appeals; Councilman Ken Petronis

Chairman Ferris called the meeting to order.

Adoption of Minutes: **Motion** by A. Mackay and seconded by D. D'Ambro to adopt the minutes of the August 24, 2009 Zoning Board of Appeals meeting. **Motion carried.**

John Maille (Tabled form August 24 Meeting)
Area Variance
ZB2009-57
SBL#232.-1-57

Motion by J. Urbanski and seconded by W. Ritter to remove the public hearing regarding John Maille Area Variance from the table. **Motion carried.**

Chairman Ferris stated that there were two reasons that this application was tabled. One was to verify that all notifications were mailed out and that a denial letter from the Building Department was sent to the applicant.

John Maille gave a brief overview of why he was appearing before the Zoning Board of Appeals. He would like to build a garage which meets all setbacks, acreage but does not meet the 300 ft. building line

Public Input

Bruce Matula questioned the reason the applicant was denied a building permit for a garage. Chairman Ferris explained that the zoning laws have changed since the lots were first approved. At the time of the subdivision they were considered legal lots but with changes made to the zoning ordinance the description of lots have changed. Mr. Matula stated that he had no problem with the applicant building a garage.

With everyone having the opportunity to comment Chairman Ferris closed the public hearing at 7:52 PM.

Chairman Ferris questioned the fact that there was still no denial letter provided. A brief discussion was held regarding this matter Ray Abbey, Building Inspector provided a copy of the denial letter to the ZBA members at which time it was entered into the record.

Resolution # 22 SEQRA (Granted)

Motion by Member Mackey and seconded by Member Urbanski, to adopt Resolution #22 of 2009.

WHEREAS, John A. Maille has submitted an application to the Zoning Board of Appeals for an Area Variance regarding property located at 61 Blizzard Road, Stillwater, New York, more fully identified as Tax Map Number 232.-1-57; and

WHEREAS, pursuant to the New York State Environmental Quality Review Act (SEQRA), the proposed action is a Type II action and requires no further action or review by the Zoning Board of Appeals;

Now, therefore, be it

RESOLVED, that the Zoning Board of Appeals hereby determines that the proposed action by the applicant, John A. Maille, is a Type II action and requires no further action or review by the Zoning Board of Appeals.

A roll call vote was taken on Resolution No. 22 as follows:

Member Alec Mackay	Yes
Member Donald D'Ambro	Yes
Member Joseph Urbanski	Yes
Member William Ritter	Yes
Chairman James R. Ferris	Yes

Motion carried unanimously.

Resolution #23 Area Variance (Approved)

Motion by Member Urbanski and seconded by Member D'Ambro, to adopt Resolution #23 of 2009.

WHEREAS, John A. Maille has submitted an application to the Zoning Board of Appeals seeking an Area Variance in order to construct a detached garage on property located at 61 Blizzard Road, Stillwater, more fully identified as Tax Map Number 232.-1-57; and

WHEREAS, the Applicant is seeking an Area Variance from the 300 foot lot width requirements contained Stillwater Zoning Code §3.5(D); and

WHEREAS, pursuant to §14.2(D) of the Stillwater Zoning Law, the Town properly and timely published a notice for public hearing conducted on August 24, 2009 and September 28, 2009; and

WHEREAS, the Zoning Board of Appeals has duly considered the application and the elements necessary to consider the granting of an Area Variance by taking into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community by such grant;

Now, therefore, be it
RESOLVED, that the Stillwater Zoning Board of Appeals hereby makes the following findings:

1. An undesirable change will not be produced in the character of the neighborhood or a detriment to nearby properties will not be created by the granting of the Area Variance because all existing lots are 150 feet, Applicant is simply adding a detached garage which does not violate the set back requirements;
2. The benefit sought by the applicant cannot be achieved by some method, feasible to the applicant to pursue, other than an Area Variance because all other lots are 150 feet and there is no extra land to purchase;
3. The requested Area Variance is substantial because it is half of the 300 foot area required at the building line; however, the lot conforms with other lots in the area;
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district as it is the same as all the other lots; and
5. The alleged difficulty was not self-created which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the Area Variance, because pre-existing lots that were subdivided, not done by the Applicant; and be it further

RESOLVED, that the application of John A. Maille for an Area Variance to allow for the construction of a detached garage on property located at 61 Blizzard Road, Stillwater, more fully identified as Tax Map Number 232.-1-57, is GRANTED, conditioned upon the removal of one existing shed and moving the other shed to a different location.

A roll call vote was taken on Resolution No. 23 of 2009 as follows:

Member Alec Mackay	Yes
Member Donald D'Ambro	Yes
Member Joseph Urbanski	Yes
Member William Ritter	Yes
Chairman James R. Ferris	Yes

Motion carried unanimously.

Beverly Dunn (C. Cowin)
Area Variance—Referred to ZBA from Planning Board
ZB2009-58
SBL#'s 253.33-1-30 & 33

Chairman Ferris commented on the change in regard to the agenda with no prior notification regarding a case that was just before the Planning Board.

Paul Cummings stated that the applicant Beverly Dunn has submitted an application for a Lot Line Adjustment regarding property located at 33 and 35 Railroad Avenue. The matter has been

referred to the Zoning Board of Appeals for consideration of granting area variances to allow for the lot line adjustment and the purpose of the lot line adjustment is to eliminate the encroachment of a portion of a driveway on one of the parcels of property. In an effort to allow the new homeowner to take advantage of the federal incentive of \$8,000 if transferred prior to November 2009 the Planning Board was hoping that if the Zoning Board rendered an informal (favorable opinion the applicant would be able to submit that to their lender.

A brief discussion on the lack of communication between the Planning Board and Zoning Board and the timeframe the applicant is facing the consensus of the Zoning Board was to hold a special meeting on October 13, 2009 at 7:30 to proceed with this application only.

Motion by J. Urbanski and seconded by W. Ritter to hold a special meeting on October 13, 2009 for one purpose only regarding the application for an area variance from Beverly Dunn (C. Cowin). **Motion carried unanimously.**

New Business

Zoning Violations: D. D'Ambro questioned whether a travel trailer on Mitchell Road is there legally.

Ray Abbey, Zoning Officer stated that he has already looked into the situation. He was informed that the trailer is not and will not be hooked up to water, sewer and that the trailer was going to be moved closer to the garage so they can do some repairs in order to have it ready for next years camping season. He stated that he if he received more complaints he would go back and look into the matter again.

Zoning Changes-Non Conforming Use: Paul Cummings submitted a draft report to the Zoning Board members regarding the proposed zoning changes that reflect comments made from the Zoning Board & Planning Board members. Basically the Planning Board mirrored the same recommendations the Zoning Board made. He requested that ZBA review the draft report and comment on the report prior to it being submitted to the Town Board.

Motion by J. Urbanski and seconded by A. Mackay to adjourn the Zoning Board of Appeals meeting at 8:50 PM. **Motion carried.**

Respectfully submitted by

Sue Cunningham
Secretary to the Zoning Board of Appeals